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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,338	02/06/2004	Domenic T. Gubitosi	FSHR077/00US	4504

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EXAMINER

NGUYEN, KIEN T

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,338

Applicant(s)

GUBITOSI ET AL. CN

Examiner

Kien T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 9-14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/23/04</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7 and 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Krueger et al U.S. Patent 4,948,120.

Krueger et al disclosed a jumper comprising a support frame (11) having a first A-shaped portion having an apex; a second A-shaped frame portion having an apex and spaced laterally from the first frame portion; a ground-engaging portion (10) coupled to each of the first and second frame portions; a first resilient member (32) (see Fig. 3) having a first end coupled to the first frame portion and spaced from the apex of the first frame portion and an opposite second end; a second resilient member (32) having a first end coupled to the second frame portion spaced from the apex of the second frame portion and an opposite second end; a seat (25) coupled to the second end of each of the resilient members; a plurality of height adjustment members (19) configured to adjust a height of the seat with respect to a support surface (applicant's claims 1, 2, 15-19). Fig. 4 of Krueger et al shows each of the first frame portion and the second frame portion has a first lower end and a second lower end spaced from the apex and is disposable in a first, deployed configuration in which the first lower end is spaced from the second lower end (Fig. 2) and a second, stowed configuration (Fig. 4) in which the first lower end is proximate the second lower end (applicant's claim 3). The

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frame is adjustable in height in each of the first deployed configuration and the second stowed configuration (see Fig. 4) (applicant's claims 4, 20). A length of the first and second resilient members can be adjusted by member (31) (see Fig. 2) (applicant's claim 7).

Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Goudeau U.S. Patent 1,806,454.

Goudeau disclosed an apparatus comprising a frame moveable between a retracted configuration (see Fig. 2) and an extended configuration, the frame having a first frame member (12), a second frame member (13); a connector (16) configured to receive at least a portion of the first frame member and at least a portion of the second frame member, at least one of the first frame member and the second frame member being slidably coupled to the connector (see page 1, line 89-92); a seat (26); a plurality of resilient members (chains 27) coupled to the frame and the seat to suspend the seat from the frame.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krueger et al in view of Siler U.S. Patent 3,765,674.

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It is noted that Krueger et al failed to teach the use of third and fourth resilient members (26, 27) as set forth in these claims. However, Siler teaches a swing having four resilient members for connecting seat (22) to the swing frame. Therefore, it would have been obvious to one of ordinary skill in the art to modify the jumper of Krueger et al with the third and fourth resilient members as taught by Siler for the purpose of increasing resiliency for the jumper.

Allowable Subject Matter

Claims 9-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The enclosed references are cited for interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (703) 308-2493. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kien T. Nguyen
Primary Examiner
Art Unit 3712

Ktn